

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF SOUTH CAROLINA
ORANGEBURG DIVISION

UNITED STATES OF AMERICA,)	CASE NO. 5:14-cv-03144-JMC
)	
Plaintiff,)	
)	
v.)	
)	
JOHN MUNGIN, WILMER LEE, JR., and)	
JOHN MUNGIN & WILMER LEE, JR.,)	
PARTNERSHIP, D/B/A SMILEY'S PRESTO)	
SHINE & MUFFLER CENTER,)	
)	
Defendants.)	
)	

JUDGMENT AND PERMANENT INJUNCTION

This matter comes before the Court upon the United States' Motion for Default Judgment. (ECF No. 16.) The United States personally served each of the defendants with a copy of the summons and complaint on August 22, 2014. (ECF Nos. 7–9.) Defendants failed to file a responsive pleading or otherwise appear in this action as required by the Federal Rules of Civil Procedure and Entry of Default was entered against them by the Clerk of Court. (ECF No. 14.) The United States has moved for entry of a default judgment and permanent injunction to be entered against Defendants. (ECF No. 16.) In support of its motion, the United States submitted a separate memorandum of law (ECF No. 16-1) and the Declaration of Richard Freeman with supporting exhibits (ECF Nos. 16-2–16-3).

Upon consideration of the United States' motion, the exhibits attached thereto, the applicable law, and the entire record herein, the court finds that Defendants are engaging in conduct that interferes with the enforcement of the internal revenue laws. Injunctive relief under 26 U.S.C. § 7402(a) and the court's inherent equity powers is therefore necessary and appropriate to stop Defendants' misconduct. Accordingly, it is hereby

ORDERED that the United States' Motion for Default Judgment is **GRANTED**. The Clerk of Court shall enter Final Default Judgment against Defendants John Mungin, Wilmer Lee, Jr., and the John Mungin & Wilmer Lee, Jr., Partnership, d/b/a Smiley's Presto Shine & Muffler Center (the "Partnership").

IT IS FURTHER ORDERED that the Partnership, Mungin, and Lee (individually and doing business under any other name or using any other entity), and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, are prohibited from failing to withhold and pay over to the Internal Revenue Service ("IRS") all employment taxes, including federal income and FICA taxes, required by law.

IT IS FURTHER ORDERED that the Partnership, Mungin, and Lee shall segregate and hold separate and apart from all other funds all monies withheld from employees or collected from others for taxes under any internal revenue laws of the United States and to deposit the monies so withheld and collected, as well as the employer's share of FICA taxes, in an appropriate federal depository bank in accordance with the federal deposit regulations.

IT IS FURTHER ORDERED that the Partnership, Mungin, and Lee shall deposit FUTA taxes in an appropriate federal depository bank each quarter in accordance with the federal deposit regulations.

IT IS FURTHER ORDERED that Mungin, Lee, and any other individuals who are responsible for carrying out the duties established under this Permanent Injunction, shall, for a period of five (5) years, sign and deliver affidavits to IRS Revenue Officer Richard Freeman, or to such other specific location as directed by the IRS, no later than the twentieth (20th) day of

each month, stating that the requisite withheld income, FICA, and FUTA tax deposits were timely made.

IT IS FURTHER ORDERED that the Partnership, Mungin, and Lee shall timely file all Form 941 and 940 tax returns with the IRS in care of Revenue Officer Richard Freeman, or to such other specific location as directed by the IRS.

IT IS FURTHER ORDERED that the Partnership, Mungin, and Lee shall timely pay all required outstanding liabilities due on each tax return required to be filed.

IT IS FURTHER ORDERED that the Partnership, Mungin, Lee, and their representatives, agents, servants, employees, attorneys, successors in interest and assigns, and anyone in active concert or participation with them, in the event all required outstanding liabilities due on each tax return required to be filed going forward from the date of the injunction are not timely paid, shall not assign any property or rights to property nor make any disbursements before paying the delinquent federal employment and unemployment taxes due.

IT IS FURTHER ORDERED that Mungin and Lee shall notify IRS Revenue Officer Richard Freeman (or such other person as directed by the IRS) in the future of any new company they may come to own, manage, or work for in the next five (5) years.

IT IS FURTHER ORDERED that the court shall retain jurisdiction over this case to ensure compliance with this Judgment and Permanent Injunction.

IT IS SO ORDERED.



United States District Judge

January 26, 2015
Columbia, South Carolina